

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 GARY B. MOORE,) No. C 09-01639 JW (PR)
12 Petitioner,) ORDER OF DISMISSAL
13 vs.)
14 ANTHONY HEDGPETH,)
15 Respondent.)
16 _____) (Docket Nos. 3 & 4)

18 On April 14, 2009, petitioner, a state prisoner proceeding pro se, filed a
19 petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the
20 constitutionality of his sentence following a jury trial finding him guilty of first
21 degree burglary, which was filed as case number C09-01634 JW (PR). On the same
22 day, petitioner filed the instant petition challenging the constitutionality of the trial
23 proceedings. Both petitions challenge the same conviction and sentence.

24 Accordingly, the instant petition is DISMISSED and the earlier petition will
25 remain open. The clerk shall file a copy of the petition and all attachments thereto
26 from the instant action in the earlier action as a “SUPPLEMENTAL PETITION.”
27 Petitioner is advised that he must include the proper docket number from that case,
28 C 09-01634 JW (PR) on all future correspondence with the Court.

1 The clerk shall terminate any pending motions (Docket Nos. 3 & 4) and close
2 the file.

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4 DATED: August 13, 2009

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JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GARY BERNARD MOORE,

Case Number: CV09-01639 JW

Petitioner,

CERTIFICATE OF SERVICE

v.

ANTHONY HEDGPETH,

Respondent.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 8/14/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gary Bernard Moore F17016
Kern Valley State Prison
P. O. Box 5104
Delano, Ca 93216

Dated: 8/14/2009

Richard W. Wiking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk